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2009-2010 Regular Sessions

I N S E N A T E

June 1, 2009

Introduced by Sen. ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the credit for servicing certain mortgages

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subsection (a) of section 1456 of the tax law, as added by chapter 167 of the laws of 1972, is amended to read as follows:

(a) Credit for servicing certain mortgages. Every bank, as defined in section two thousand four hundred two of the public authorities law, which shall have entered into a contract with the state of New York mortgage agency to service mortgages acquired by such agency pursuant to the state of New York mortgage agency act OR MORTGAGES ACQUIRED BY A BANK (I) ON BEHALF OF THE AGENCY OR (II) IN CONNECTION WITH ANY PROGRAM OF THE AGENCY, FOR SALE TO OR TRANSFER IN EXCHANGE FOR A MORTGAGE BACKED SECURITY TO BE ISSUED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, shall have credited to it annually to apply upon or in lieu of the payment of any tax to which it may be subject under this article an amount equal to two and ninety-three one hundredths percentum of the total principal and interest collected by the bank during its taxable year on each such mortgage secured by a lien on real estate improved by a one-family to four-family residential structure and an amount equal to the interest collected by the bank during its taxable year on each such mortgage secured by a lien on real property improved by a structure occupied as the residence of five or more families living independently of each other, multiplied by a fraction the denominator of which shall be the interest rate payable on the mortgage (computed to five decimal places) and the numerator of which shall be .00125 in the case of such a mortgage acquired by such agency for less than one million dollars, and .00100 in the case of such a mortgage acquired by such agency for one

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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million dollars or more; provided, however, that there shall in no case be credited to any such bank an amount in excess of the amount due from such bank for taxes payable to the state under this article for the taxable year for which such credit is given. In computing such tax credit for the servicing of mortgages on one-family to four-family residential structures, the bank shall be entitled to no credit for the collection of curtailments or payments in discharge of any such mortgage. For the purposes of this section, (a) a "curtailment" shall mean amounts paid by mortgagors (1) in excess of the monthly constant due during the month of collection and (2) in reduction of the unpaid principal balance of the mortgage; in the absence of clear evidence to the contrary, amounts paid in excess of the monthly constant due during the month of collection shall be deemed to be in reduction of the unpaid principal balance of the mortgage; and (b) "monthly constant" shall mean the amount of principal and interest which is due and payable according to the mortgage documents on each periodic payment date.

S 2. This act shall take effect immediately.